

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of

Federal-State Joint Board
on Universal Service

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cc Docket No. 96-45

To: The Commission

REPLY COMMENTS OF PUERTO RICO TELEPHONE COMPANY

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TABLE OF CONTENTS

	<u>Page</u>
SUMMARY	ii
I. INTRODUCTION	1
II. THE COMMISSION SHOULD ADOPT PRTC'S PROPOSAL TO TREAT EQUALLY CARRIERS SERVING INSULAR AREAS AND PROVIDE FOR ANNUAL COST ADJUSTMENTS	2
A. The Statute Makes No Distinction Among Carriers Serving Insular Areas	2
B. The Embedded Cost Must be Adjusted Annually to Account for Line Expansion	4
III. THE USF PROPOSAL DENIES CARRIERS ADEQUATE COST RECOVERY	5
A. The Proposal Does Not Reflect its Relationship with Interconnection and Access Charge Reform	6
B. Inaccuracies of the Chosen Proxy Cost Model Will Lead to Underrecovery	10
IV. THE NATIONAL BENCHMARK MUST BE ADJUSTED TO YIELD SUFFICIENT USF SUPPORT	12
A. The Benchmark Should Reflect the Assessment of Affordability for Subscribers in a Carrier's Service Area	13
B. PRTC Agrees that a Dichotomy Between the Benchmark Average Revenues-Per-Line and the Proxy Cost Model Could Artificially Suppress USF Support Payments . .	14
V. CONTRIBUTIONS TO THE HIGH COST FUND SHOULD BE BASED ONLY ON INTERSTATE REVENUES	15
VI. CONCLUSION	19

SUMMARY

The parties participating in this proceeding are numerous and diverse, but the comments make clear that the Commission should consider making important adjustments to the Recommended Decision proposed by the Federal-State Joint Board. As PRTC proposed in its Comments, the Commission should first clarify that the recommendation for calculation of USF support for insular areas should apply to all carriers serving such areas, not just rural carriers. In addition, the Commission should apply an annual adjustment to the embedded cost calculation to avoid disincenting line expansion.

Consistent with its comments in this proceeding, PRTC also supports adjustments to the overall calculation of USF contributions and distributions such that telecommunications service providers are compensated sufficiently so that they can work to meet the goals of universal service. It does not appear that these goals can be met unless the interrelationship between interconnection rules, access charge reforms, and universal service changes is addressed in this proceeding. Because the proxy cost models are intended to forecast a theoretical cost for serving an area (and may or may not do this accurately), the limitations in carrier compensation caused by regulatory fiat in the interconnection proceeding will only be exacerbated in the USF context. The Commission should ensure, however, that the "costs" that are projected by the model coincide with only those revenues generated pursuant to those costs.

Finally, many parties agree with PRTC that the Joint Board's proposal to assess both intra- and interstate revenues for the schools and libraries fund exceeds federal jurisdiction. However, other parties have seized upon this proposal and advocated further the assessment of intrastate revenues for the high cost fund. Regardless of estimated demands for the fund, section 254 maintains clear jurisdictional separations between federal and state issues in the form of a dual system. Therefore, the proposal to assess intrastate revenues for the school and libraries funds — and subsequent proposals to extend this policy to the high cost fund — must be rejected.

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REPLY COMMENTS OF PUERTO RICO TELEPHONE COMPANY

Puerto Rico Telephone Company ("PRTC") hereby submits its Reply Comments in response to issues raised by parties regarding the Federal-State Joint Board's Recommended Decision in the above-referenced proceeding.¹ Comments in this proceeding show that revisions to the Joint Board's Recommended Decision are required to bring the proposal into compliance with the statutory requirements of the Telecommunications Act of 1996 and to ensure that changes to the current universal support system do not have adverse consequences on local rates and ultimately subscribership levels.

I. INTRODUCTION

The comments submitted in this proceeding demonstrate that the Recommended Decision should be revised by the Commission. The revisions supported by PRTC will ensure fairness in the support mechanisms for insular areas, the development of a universal service policy that acknowledges and responds to those changes implemented by the Interconnection Order and anticipated

^{1/} Common Carrier Bureau Seeks Comment on Universal Service Recommended Decision, CC Docket No. 96-45, Public Notice, DA 96 1891 (rel. November 18, 1996).

in access charge reform, and consistency with the plain words of section 254 of the Communications Act. The primary goal of this proceeding should be to target service to those areas where the cost of providing service is high and to those consumers for whom basic services are unaffordable. Therefore, the Commission should implement a program that permits all carriers serving insular areas to use actual costs for determining support payments, that provides adequate cost recovery, that determines support based on a comparison between average revenues-per-line and a directly correlating measurement of costs to generate those revenues, and that comports with traditional jurisdictional separations as required by the statute.

II. THE COMMISSION SHOULD ADOPT PRTC'S PROPOSAL TO TREAT EQUALLY CARRIERS SERVING INSULAR AREAS AND PROVIDE FOR ANNUAL COST ADJUSTMENTS

A. The Statute Makes No Distinction Among Carriers Serving Insular Areas

As PRTC stated in its Comments, section 254(b)(3) specifically requires that service in insular areas (as well as rural areas and high cost areas) be made available at rates that are "reasonably comparable" to those in urban areas.² However, the Joint Board's recommendation meets this criteria only for those insular areas that are served by rural carriers. There is no indication that the disparate treatment as between insular areas served by rural carriers and insular areas served by non-

^{2/} 47 U.S.C. § 254(b)(3).

rural carriers, as suggested by the Joint Board's proposal, was intended by Congress.

Indeed, the absence of such a distinction in the statute makes clear that no arbitrary division was intended and that none could be sustained under the plain language of section 254(b)(3). Moreover, such a distinction will have an effect on Puerto Rico, where the low subscribership rate clearly evidences the need for targeted support.³ USTA agrees with PRTC's position that the Joint Board's implementation of this USF principle is inconsistent with the plain words of section 253(b)(3). USTA concludes that no basis has been identified for treating differently insular carriers that face the same high cost conditions because "[t]hese companies face circumstances unlike those encountered by other carriers and they should not be subject to any further risks."⁴ Having concluded that there is no practical difference between the high cost factors in insular areas experienced by rural carriers and non-rural carriers, USTA has urged the Commission not to limit relief to rural telephone companies operating in insular areas.⁵

^{3/} See PRTC Comments at 5-7 (filed December 19, 1996).

^{4/} USTA at 25 (noting that these conditions include extremely high shipping costs and the high risk of severe hurricane damage) (citation omitted); see also PRTC at 22-23.

^{5/} USTA at 25. USTA suggests that the eligible carriers serve less than two percent of the Nation's subscriber lines. PRTC has not proposed a limitation based on the carriers percentage of subscriber lines, but does not oppose such a limitation at this time.

Based on the arguments presented by PRTC and USTA, the Commission should clarify that the support mechanism for carriers serving insular areas applies to all carriers in those areas. This clarification will satisfy the plain language of the Act and serve the greater goal of ensuring universal service, especially in those areas where subscribership is significantly below the national average.

B. The Embedded Cost Must be Adjusted Annually to Account for Line Expansion

Some commenters have pointed out that the calculation of universal service support based on frozen embedded costs at 1995 levels over an extended period of time will penalize carriers that implement needed network upgrades and expansion. Capping the reimbursable costs for these carriers at 1995 levels will result in a disincentive for infrastructure investment.⁶ We are now entering 1997, and many carriers have already pledged or planned for network investments that would not be reflected by 1995 cost calculations, thereby requiring these carriers to recover costs based on an unrealistically low figure from the inception of the new universal service program. Conceivably, this discrepancy between frozen and actual costs would be exacerbated over time, given a normal rate of investment. However, by determining now that carriers will not recover costs over the 1995 levels, the Recommended Decision will discourage upgrades and expansions that would result in a more modern

^{6/} See, e.g., Rural Alliance at 5; Cathey, Hutton and Associates at 9-10; Evans Telephone Company, et al. at 7-9.

ubiquitous network. This cannot be the effect that was intended by Congress or the Joint Board.

PRTC supports an annual increase in the embedded cost figure that accounts for and supports line expansion to unserved locations and consumers, especially in insular areas where the subscribership level indicates a necessity for increasing service penetration. Such increases should be consistent with the carrier's actual costs. In fact, this is the context in which forward-looking cost as determined by a model could be useful in assessing an appropriate rate of increase in universal service support. This proposal should be adopted so that universal service in insular areas can be provided at reasonable rates and so that the investments required to provide service to consumers comparable to that in urban areas as required by section 254(b)(3) may be continued. Such an effort is especially significant for an area like Puerto Rico where the subscribership rate shows that additional network expansion will be required to serve many among the 26 percent of the island's population who still lack service.

III. THE USF PROPOSAL DENIES CARRIERS ADEQUATE COST RECOVERY

The Recommended Decision fails to demonstrate how the proposal is intended to address the significant loss of cost recovery mechanisms caused by regulatory changes in the

interconnection proceeding,⁷ and how adjustments may be made for future lost cost recovery mechanisms as a part of access charge reform. Combined with the proposed adherence to an unnamed proxy cost model to estimate forward-looking incremental costs,⁸ the proposed USF system will almost certainly provide inadequate cost support in high-cost areas.

A. The Proposal Does Not Reflect its Relationship with Interconnection and Access Charge Reform

Like PRTC, a number of commenters have pointed out that the Recommended Decision fails to account for the loss in sources for carrier cost recovery caused by the Interconnection proceeding, and similarly fails to predict or provide for future adjustments pursuant to forthcoming changes in the access charge regime. The logical result of this shortcoming will be a revenue shortfall for carriers whose traditional methods for permissible recovery have been limited by regulatory changes.⁹ Consumers ultimately

^{7/} A distinction should be made here between the introduction of competition in the local exchange market and regulatory changes that deny cost recovery. While competitive entry was clearly intended by the 1996 Act, there is nothing in the statute to suggest that Congress intended for the Commission to adopt regulatory changes that would deny LECs cost recovery. See PRTC at 12.

^{8/} Throughout this proceeding, the focus has been on developing an appropriate proxy model to calculate carrier costs for USF. It bears noting, however, that nowhere in section 254 has Congress indicated that this is the required approach for implementing changes to improve the universal service program.

^{9/} See USTA at 6 ("The Interconnection Order eliminated the incumbent LECs' ability to support universal service with usage-based access, toll and vertical service revenues. . . . The arbitrage among access and local interconnection and unbundled network elements permitted under the Interconnection Order will
(continued...)

will experience the effects of the new regulatory regime and associated revenue losses as implicit sources for universal service support are eliminated and not replaced.

Commenters have expressed a similar theme that the combined effect of interconnection regulations, USF restructuring, and access charge reform will have an adverse effect on the ability of carriers to provide basic services at affordable rates. BellSouth admonishes that "[i]n determining the rules necessary to meet the principles and requirements of Section 254, the Commission must also be mindful of other rules and regulations that may affect the achievement of the universal service objectives, or indeed, conflict with these objectives During the course of this proceeding, the focus has been to identify the additional regulations that would be needed to implement the requirements of Section 254. No consideration has been given to the relationship of these rules to other rules and regulations."¹⁰ PRTC agrees.

Despite prior indication in the Interconnection Order that the recovery of embedded costs would be revisited in the universal service and access reform proceedings, it is not obvious, at least in this proceeding, that the Recommended Proposal will do so. In the Interconnection Order, the Commission stated:

^{9/}(...continued)
quickly erode the traditional sources of revenues used to support universal service.").

^{10/} BellSouth at 16.

[t]o the extent that any such residual [embedded costs] consists of costs of meeting universal service obligations, the recovery of such costs can and should be considered in our ongoing universal service proceeding. To the extent a significant residual exists within the interstate jurisdiction that does not fall within the ambit of section 254, we intend to address that issue in our upcoming proceeding on access reform.¹¹

If the Commission intends to follow its stated intention, it appears to have been reserved to the access charge proceeding. As NYNEX states, "[i]f the Commission adopted the Joint Board recommendation to use forward-looking costs to calculate high-cost support, the LECs would not recover their embedded costs from the universal service fund."¹² Given the tenor of the first two "trilogy" proceedings, PRTC is concerned that the issue of embedded costs — those that "some incumbent LECs may have incurred . . . reasonably before the passage of the 1996 Act, based on different regulatory regimes"¹³ — will not be addressed fairly and adequately, in the access charge proceeding.

ALLTEL accurately describes this situation and its impact:

[T]he Joint Board has largely ignored the ramifications of the Commission's First Report and Order in the Interconnection proceeding and the related impacts on access charges. As acknowledged by the Commission, this proceeding, the Interconnection one, and the long-awaited access reform proceeding are all interrelated proceedings. They have been referred to as a "three-legged stool". In actual fact, what we are faced with as a result of the Interconnection Order and the Joint Board's Recommended

^{11/} Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, First Report and Order at ¶ 707 (rel. August 8, 1996) (footnote omitted) ("Local Competition Order"); see also NYNEX at 37.

^{12/} NYNEX at 37.

^{13/} Local Competition at ¶ 707.

Decision is a "one legged stool" with LECs being saddled with jurisdictional allocations of interstate costs and having to support those costs with intrastate revenues and no specific and defined mechanisms for the recover [sic] of these costs.¹⁴

Some predict that consumers will eventually experience the loss of cost recovery mechanisms and that for low income customers, the proposed increase in Lifeline support will not overcome the effect.¹⁵ The Commission should ensure now that the combined effect of the three main proceedings that have changed and will continue to change the existing regulatory landscape provide carriers with adequate recovery mechanisms that keep local rates at affordable levels, or the Commission will have failed to comply with the universal service requirements of the new Act.

A number of parties suggest that the new regulatory regime constitutes an unconstitutional regulatory taking. Some also point out that because ILEC investments were made in reliance upon a regulatory compact, they should not be required to bear the losses caused by its change without compensation.¹⁶ For

¹⁴/ ALLTEL at 3.

¹⁵/ Vermont Department of Libraries, Department of Public Service and Public Service Board at 11-12 ("If, as a result of competition and access reform, rates in high cost areas rise above current levels notwithstanding high cost support, then the proposed federal support level of \$5.25 or \$7.00 will not be sufficient to achieve affordable rates for low income customers who happen to live in high cost areas.") (emphasis added); see also PRTC at 14-16.

¹⁶/ See, e.g., GTE at 46 (stating that arbitrary switching by government between methodologies in a way which requires investors to bear the risk of stranded investment raises constitutional questions); see also Cathey, Hutton and Associates at 1 ("Investments were made by ILECs in good faith (continued...)

example, U S West states that "[t]he implication here is that the regulatory compact whereby telephone companies were entitled to a fair rate of return on their total investment as a matter of law is no longer operative, because competitive businesses all must face the risk of loss whenever they conduct business operations. This argument misses the point of the right of regulated companies to earn a reasonable rate or [sic] return."¹⁷ The vast regulatory changes that are being implemented will not withstand judicial scrutiny if they are imposed without regard to compensation that may be required for prior ILEC investments made pursuant to the regulatory regime existing at the time those investment commitments were made.

B. Inaccuracies of the Chosen Proxy Cost Model Will Lead to Underrecovery

Not only does the regulatory regime taken as a whole suggest the possibility of a regulatory taking, but so does the replacement of the existing universal service system with one that employs a proxy model that will systematically underestimate costs in determining a recipient's level of USF support. According to GTE, the cost measure must reasonably estimate the market price of universal service, which depends upon the actual cost of providing the defined service. "If the cost estimate

^{16/} (...continued)

that an opportunity for recovery of the cost would continue to exist. In order to satisfy this regulatory compact and . . . imposition of a proxy-based cost recovery mechanisms [sic] must wait until ILECs recover costs incurred in good faith"); Cincinnati Bell at 10.

^{17/} U S West at 58.

deviates significantly from the actual costs of providing the service, the plan will be insufficient, will not be competitively neutral, and may create a taking of ILEC property."¹⁸ Similarly, Pacific Telesis concludes that if the cost model does not accurately reflect actual ILEC costs, then these costs will be "unrecoverable" in the new competitive environment; "[n]either the Telecommunications Act nor the constitutional prohibition against uncompensated takings will countenance such a result."¹⁹

Until a definitive proxy cost model has been selected, it will be virtually impossible to determine the ability of a model to predict costs. However, some commenters claim that a proxy model will never predict costs with accuracy sufficient to justify using the model to determine USF support.²⁰ As an

^{18/} GTE at 27, 28 (noting also that the proxy models that have been submitted to the Joint Board in this proceeding "systematically underestimate the actual cost of service"); see also GTE at 41; Pacific Telesis at 21; Rural Telephone Coalition at 1-3; SBC at 1.

^{19/} Pacific Telesis at 7.

^{20/} See Fred Williamson & Assoc. at 6 ("[W]hile such models are useful to show what it *should* cost to serve a particular market with specific geographic, subscriber density, and other characteristics, they do not reveal what actual and potential providers will demand in order to serve such a market. It is the cost estimates of these actual and potential providers -- and not the estimates of any particular model -- that offer us the best estimate of the true cost of providing service in these markets"); Wyoming PSC at 9 ("The FCC and Joint Board should seriously consider whether it is a productive exercise to insist that a single model must be the only result. To date, "one size" does not fit all and gives every indication that the fit might be disastrous."); see also GSA at 5, 6-7 ("GSA believes that loop costs derived from a proxy model are intrinsically less accurate than a carrier's actual costs. . . . Use of an unreasonable model will not provide an equitable and nondiscriminatory distribution (continued...)")

alternative to the Joint Board's proposal, the cost in a particular area could be set based upon the ILEC's actual costs that have been documented over a period of time. The proxy cost model should then be used to identify those situations where further scrutiny may be needed because reported costs appear to be unusually high.²¹ In addition, the proxy cost model, as a predictor of forward-looking costs, may be most usefully employed to assess the amount by which the fund must increase in a particular year to account for growth in subscribership.²²

IV. THE NATIONAL BENCHMARK MUST BE ADJUSTED TO YIELD SUFFICIENT USF SUPPORT

If the Commission retains the proposal in the Recommended Decision to calculate USF support by comparing costs to a national benchmark revenue level set according to average revenues-per-line, then the benchmark must be adjusted in two

^{20/} (...continued)

of universal service support. Therefore, GSA urges the Commission to examine all proxy models carefully to ensure that they accurately represent local conditions, and to allow the use of proxy models only when carrier costs are not available"); Northern Mariana Islands at 33 ("The Commonwealth agrees with the Joint Board that carriers serving the insular areas and Alaska should be given an indefinite exemption until the Commission's proxy model has been proven") (footnote omitted).

^{21/} The model could also be used to calculate the distribution of universal support payments once the support on a study area level has been calculated based on ILEC actual cost. The cost-based support could then be divided among smaller geographic areas according to the proxy cost model and distributed to eligible telecommunications carriers accordingly. See Pacific Telesis at 12-13.

^{22/} See discussion at 5, supra.

respects. First, PRTC reiterates that the benchmark should reflect a determination of whether or not the rates in an area are affordable as determined by the subscribership level. Otherwise, support may be provided only to sustain rates that have already been proven — by low subscribership rates — to be unaffordable. Second, PRTC agrees with commenters that the benchmark must only include those per-line revenues that have been generated by the services for which corresponding costs are determined.

A. The Benchmark Should Reflect the Assessment of Affordability for Subscribers in a Carrier's Service Area

As PRTC stated in its comments, a determination of affordability should be made based on subscribership levels. If rates are presumptively unaffordable,²³ then the benchmark should be adjusted to provide additional universal service support for customers. Other parties have also suggested that affordability should be an essential consideration for addressing universal service issues. For example, the Governor of Guam has requested that the Commission "make clear that rates that are not affordable or reasonably comparable can be supported by universal support mechanisms."²⁴ Similarly, the Minnesota Independent Coalition has determined that "[a]ffordability must be directly

^{23/} PRTC proposed that rates are presumptively unaffordable if the subscribership level for a given area is more than five percent below the national average. PRTC at 26-27.

^{24/} Governor of Guam at 10.

included in determining support levels for Rural LECs."²⁵ The Commission should adopt PRTC's proposal in this regard to meet the statutory requirement that "[q]uality service should be available at just, reasonable and affordable rates,"²⁶ in a way that targets those areas where more assistance is required to ensure that current non-subscribers will be served.

B. PRTC Agrees that a Dichotomy Between the Benchmark Average Revenues-Per-Line and the Proxy Cost Model Could Artificially Suppress USF Support Payments

A number of commenters have pointed out that basing cost support on the difference between average revenues-per-line (including revenues from basic, access and discretionary services) and a proxy cost model is like comparing "apples to oranges."²⁷ The proposal is based on the assumption that the proxy cost model will include costs for services beyond those required to provide the core services covered by universal service. Therefore, the revenues-per-line must include something more than revenues generated by the core services. While the Joint Board has asserted that the proxy cost model will include the cost of facilities to provide local, access and discretionary services,²⁸ parties assert that the costs for providing the core services should be compared directly to the revenues generated by

^{25/} Minnesota Independent Coalition at 14.

^{26/} 47 U.S.C. § 254(b)(1); see also 47 U.S.C. § 254(i).

^{27/} The Citizens Companies at 24.

^{28/} Recommended Decision at ¶ 311.

these same services in order to yield an accurate assessment of universal service support.²⁹

PRTC agrees that if revenues are artificially inflated in comparison with the cost inputs used to calculate the proxy cost, universal service support payments will be inadequate. According to Pacific Telesis, the benchmark is likely to overestimate revenues and result in a shortfall for USF support. Because the cost model will not include those costs associated with discretionary and access service as assumed by the Joint Board, these corresponding revenues should not be used to calculate the benchmark.³⁰ To the extent that the estimated cost for providing service will not correspond to those revenues included in the average revenues-per-line, this benchmark calculation must be adjusted. If the benchmark is artificially inflated, the subsequent support calculation will fail to provide sufficient funding for universal service.

V. CONTRIBUTIONS TO THE HIGH COST FUND SHOULD BE BASED ONLY ON INTERSTATE REVENUES

The Joint Board has proposed that support for schools, libraries, and rural health care providers should be based on both the interstate and intrastate revenues of interstate service

^{29/} See, e.g., Texas PUC at 6-7; GTE at 22-23 (stating that there is no reason to assume that proxy cost models will include costs for other services, so it is illogical to include such revenues in the benchmark to attempt to match).

^{30/} Pacific Telesis at 16.

providers.³¹ Despite the fact that even this proposal is contrary to the statutory jurisdictional separation between interstate and intrastate communications,³² some parties have followed the Joint Board's lead and further suggested that the high cost fund be supported with funds from the combined revenue base as well.³³ This further proposal, like the Joint Board's recommendation for schools, libraries, and rural health care providers, is contrary to the Act, which mandates a continued distinction between federal and state jurisdiction.³⁴ Simply stated, "[T]he Recommended Decision provides no legal rationale for the conclusion that the interstate/intrastate distinction has been abrogated."³⁵ Traditional statutory jurisdictional divisions between interstate and intrastate services have not been abrogated by section 254 and therefore, are preserved.

^{31/} Recommended Decision at ¶ 817.

^{32/} See PRTC at 29-30; California PUC at 18-19; Missouri PSC at 4; New York Department of Public Service at 3-8; Utah PSC at 3-4.

^{33/} See, e.g., ALTS at 10-11; Sprint at 7; Time Warner Communications at 8.

^{34/} Alabama PSC at 2.

^{35/} Maryland PSC at 12 (footnote omitted); see also Ohio PUC at 21 ("An examination of the 1996 Act shows that the FCC does not have clear authority to utilize intrastate revenue to fund its universal service program."); Bell Atlantic at 5 ("If Congress had intended that both the Commission and states could tap both interstate and intrastate revenues, as the Joint Board suggest, there would have been no reason for it to specify separate universal service funds and funding sources" (footnote omitted)).

The jurisdictional separation between federal and state telecommunications services and matters has been consistently upheld.³⁶ Absent clear statutory language to the contrary, the jurisdictional designations established by section 2(b) of the Communications Act remain intact.³⁷ Attempts by parties and the Joint Board to find authority in the absence of particular words from the statute,³⁸ the perceived fund requirements (both school/libraries and high cost),³⁹ or administrative convenience⁴⁰ fail to overcome these clear statutory mandates. In addition, the Joint Board's participation in the universal service proceeding, in itself, does not authorize such a transgression into state matters under the guise of a federal

^{36/} Louisiana Public Serv. Comm'n v. FCC, 476 U.S. 355 (1986).

^{37/} 47 U.S.C. § 152(b).

^{38/} Recommended Decision at ¶ 820 (stating that "the statute does not expressly identify the assessment base for the calculation of the contribution"); Vermont Dept. of Libraries, DPS and Public Service Board at 5 (claiming that silence on the funds means that FCC can collect from any telecommunications carrier that provides interstate services); AT&T at 6 (stating that section 254(f) "gives the states only a complementary role in the universal service system"); CompTel at 7 (claiming that Congress did not specifically restrict 254(d) to interstate revenues of interstate providers).

^{39/} See Sprint at 8 (stating that interstate revenues are too small a pool for the federal fund); ALTS at 12 (stating that "[i]t also makes sense as a practical matter to base contributions on as large a revenue base as possible").

^{40/} See Alaska PUC at 11; AT&T at 5; ALTS at 13.

program.⁴¹ The nuances of congressional silence, the expectation for an expansion in the size of the fund, and professions of administrative ease are not acceptable basis on which to act in clear contravention of the statute. To disturb the jurisdictional distinction in this case would be to cripple the Congressionally approved efforts by states to fund their own universal service systems that would be specifically geared toward a state's particular universal service needs.

As stated by the Maryland Public Service Commission, "Maryland has specific universal service funding needs that cannot be met if intrastate revenues are used to fund out-of-state providers of . . . basic telephone service."⁴² Clearly, the proposal to tax both pools of revenues at the federal level will affect the consumer in the end. If enacted as proposed, states would be required to tax twice the revenues from local services,

once to export revenues to other states and once to subsidize high-cost areas in their own state. This double-whammy on intrastate revenues would likely cause sharp local

^{41/} See ALTS at 10-11 ("Indeed, there would be little sense in Congress referring such a matter to a multi-jurisdictional panel if only one jurisdiction were intended to bear the costs of a particular goal.").

^{42/} Maryland PSC at 6; see also Alabama PSC at 3 ("A decision by the FCC to assess the intrastate revenues of the interstate carriers may severely affect the ability of the states to establish complementary programs in their states to address the increased pressures on rates or adopt additional definitions or standards to preserve and advance universal service within the state.").

rate increases to pay disproportionately for both universal service funds.⁴³

It is enough that this recommendation is contrary to the clear statutory division between interstate and intrastate services to support its elimination. However, the proposals to assess interstate and intrastate revenues to fund schools, libraries, and rural health care providers and the high cost fund are contrary to the long-term interests of consumers and the universal service mandate and on this basis alone rejection of the proposal is required.

VI. CONCLUSION

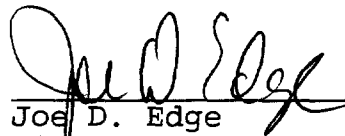
For these reasons, PRTC respectfully requests that this Commission take the following actions with respect to the Federal-State Joint Board's Recommended Decision on universal service. First, the Commission should clarify that carriers serving insular areas should receive universal service support based on an actual cost methodology. In addition, the Commission should consider adjusting the "frozen" embedded costs annually so as not to discourage service expansion and improvement.

Second, the Commission should ensure that telecommunications service providers are adequately compensated while meeting the goals of universal service to avoid an unconstitutional taking. The failure to reflect the interrelationship between interconnection rules, access charge reforms, and universal

^{43/} Bell Atlantic at 7.

service changes in the universal service system is likely to have a consequent, adverse impact on universal service. Third, the national benchmark must be calculated according to those revenues that directly correspond to the cost estimate; otherwise, revenues will be overstated as compared to costs, resulting in underrecovery from the fund and a decreased ability by carriers to provide universal service. Finally, the Joint Board's proposal to assess both intra- and interstate revenues for the schools and libraries fund exceeds federal jurisdiction and must be rejected. This same policy applies to the high cost fund.

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Dated: January 10, 1997

CERTIFICATE OF SERVICE

I, Marjorie A. Schroeder, do hereby certify that a copy of the foregoing Reply Comments was sent by first class United States mail, postage prepaid, this 10th day of January, 1997, to the following:

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